

**INDIVIDUAL MOTION PRACTICES OF
JUDGE DAVID G. TRAGER
United States District Court
225 Cadman Plaza East
Brooklyn, NY 11201
(718) 613-2510
Fax: (718) 613-2518**

I. ELECTRONIC CASE FILING (ECF) FOR CIVIL CASES

- A. All documents in civil actions shall be filed electronically.
- B. Orders will be posted electronically, and parties not registered on ECF will not receive them.
- C. Hard copies of all papers filed electronically, including motions, letters and stipulations, must be provided to Chambers. All such papers must be clearly marked "Courtesy Copy," "Original Filed by ECF," and "Assigned Document Number ____."
- D. Parties filing voluminous or non-text exhibits may choose to file only hard copies of those exhibits when electronic filing of those exhibits is impracticable. If exhibits are not electronically filed, one copy must be clearly marked "Original" and the other marked "Courtesy Copy," and related papers that are electronically filed should clearly indicate that exhibits have been filed by hard copy.
- E. Pro se parties are automatically exempt from mandatory electronic filing. However, parties represented by counsel in pro se cases must file documents electronically and mail a hard copy of the document to the pro se litigant.
- F. Requests by attorneys for an exemption to the mandatory policy will be considered for good cause hardship reasons only, and will be reviewed on an individual basis by the assigned United States Magistrate Judge. However, no request will be granted until the attorney has registered for ECF and sought ECF training. Questions regarding ECF filing or training should be directed to Terry Vaughn or Marilyn Glenn at (718) 613-2330/2610.
- G. Sealed documents or documents containing sealed/sensitive information should be submitted in hard copy only and be so labeled.

II. COMMUNICATIONS WITH CHAMBERS

Docketing, Scheduling, and Calendar Matters

For non-docketing, scheduling and calendar matters, call chambers between 9:30 a.m. - 6:00 p.m.

Request for Adjournments or Extension of Time

All requests for adjournments or extensions of time must state: (1) the original date; (2) the number of previous requests for adjournments or extensions; (3) whether these previous requests were granted or denied; and (4) whether the adversary consents, and, if not, the reasons given by the adversary for refusing to consent. If the adjournment or extension affects any other scheduled dates, a proposed Revised Scheduling Order must be attached. If the request is for an adjournment of a court appearance, absent an emergency it shall be made at least 48 hours prior to the scheduled appearance.

Letters

Communications with chambers shall normally be by letter, with copies simultaneously delivered to all counsel and filed electronically. Except for discovery matters, copies of correspondence between counsel shall be sent to the Court.

Faxes

Faxes to chambers are permitted only if copies are also simultaneously faxed or delivered to all counsel and filed electronically. Do not follow with hard copy. The fax number is listed above.

Telephone Calls

For general information, telephone calls to chambers are permitted.

III. MOTION RULES AT A GLANCE

Oral Argument	Yes
Courtesy Copies to Chambers	Yes
Special Filing Rules	Yes

IV. MOTIONS

Pre-Motion Conferences

For discovery motions, follow Local Civil Rules 37.3 and 6.4.

For motions other than discovery motions, in all cases where the parties are represented by counsel and in other than habeas corpus/prisoner petitions and Social Security and Bankruptcy appeals, a pre-motion conference with the Court is required before making any dispositive motion, motion for a change of venue or to amend a pleading pursuant to Rule 15 of the Fed. R. Civ. P. where leave of court is required.

To arrange a pre-motion conference, the moving party shall submit a letter not to exceed three (3) pages in length setting forth the basis for the anticipated motion. All parties so served must serve and file a letter response, not to exceed three (3) pages within seven (7) days from service of the notification letter. Service of the letter by the moving party within the time requirements of Rule 12 of the Fed. R. Civ. P. shall constitute timely service of a motion made pursuant to Fed. R. Civ. P. 12(b).

Courtesy Copies

Courtesy copies of all motion papers, marked as such, should be submitted for chambers.

Memoranda of Law

Unless prior permission has been granted, memoranda of law in support of and in opposition to motions are limited to 25 pages, and reply memoranda are limited to 10 pages. Memoranda of 10 pages or more shall contain a table of contents.

Filing of Motion Papers

No motion papers shall be filed until the motion has been fully briefed. The notice of motion and all supporting papers are to be served on the other parties along with a cover letter setting forth whom the movant represents and the papers being served. A copy of the cover

letter only is to be mailed to the assigned district judge and the magistrate judge at this time.

Subject to court approval, the parties are to set up their own briefing schedule. No changes in the approved schedule may be made without court approval. Approval may be given at the pre-motion conference or by subsequent letter. No party is to serve any motion papers prior to obtaining court approval for the schedule.

The original moving party shall be responsible for filing all motion papers. For all cases where electronic filing is required (see “I” above) the moving party shall be responsible for electronic filing of all motion papers. The adversary is responsible for providing the movant with a PDF version of opposition papers. The movant is further obligated to furnish to chambers a full set of courtesy copies of the motion papers together with a cover letter specifying each document in the package. A copy of the cover letter shall be sent to the assigned magistrate judge and to opposing counsel.

Oral Argument on Motions

Where all parties are represented by counsel, oral argument will be held on all motions. The notice of motion shall state that oral argument will be “on a date and at a time to be designated by the Court.” The Court will contact the parties to set the specific date and time for oral argument.

Motions to Remand to State Court

Motions to remand to state court are exempt from the rules above concerning pre-motion conferences and filing of motion papers. The movant's papers shall be filed timely in accordance with 28 U.S.C. § 1447(c). The schedule for subsequent papers may be set either in accordance with the local rules, or by a schedule agreed upon by the parties and approved by the court. The original moving party is still responsible for filing all motion papers in accordance with the rule above.

V. PRETRIAL PROCEDURES

Unless otherwise ordered by the Court, within 60 days from the date for the completion of discovery in a civil case, the parties shall submit to the Court for its approval a joint pretrial order, which shall include the following:

- i. The full caption of the action.
- ii. The full names, addresses, and telephone and fax numbers of trial counsel.

- iii. A brief statement by plaintiff as to the basis of subject matter jurisdiction, and a brief statement by each other party as to the presence or absence of subject matter jurisdiction. Such statements shall include citations to all statutes relied on and relevant facts as to citizenship and jurisdictional amount.
- iv. A brief summary by each party of the claims and defenses that party has asserted which remain to be tried, without recital of evidentiary matter but including citations to all statutes relied on. Such summaries shall identify all claims and defenses previously asserted which are not to be tried.
- v. A statement by each party as to whether the case is to be tried with or without a jury, and the number of trial days needed.
- vi. A statement as to whether or not all parties have consented to trial of the case by a magistrate judge (without identifying which parties have or have not so consented).
- vii. Any stipulations or agreed statements of fact or law which have been agreed to by all parties.
- viii. A list of the names and addresses of all witnesses, including possible witnesses who will be called only for impeachment or rebuttal purposes and so designated, together with a brief narrative statement of the expected testimony of each witness. Only listed witnesses will be permitted to testify except when prompt notice has been given and good cause shown.
- ix. A designation by each party of deposition testimony to be offered in its case in chief, with any cross-designations and objections by any other party.
- x. (1) A statement of stipulated fact, if any;

(2) A schedule listing exhibits to be offered in evidence and, if not admitted by stipulation, the party or parties that will be offering them. The schedule will also include possible impeachment documents and/or exhibits, as well as exhibits that will be offered only on rebuttal. The parties will list and briefly describe the basis for any objections that they have to the admissibility of any exhibits to be offered by any other party. Parties are expected to resolve before trial all issues of authenticity, chain of custody and related grounds. Meritless objections based on these grounds may result in the imposition of sanctions. Only exhibits listed will be received in evidence except for good cause shown; and

(3) All exhibits must be premarked for the trial and exchanged with the other parties at least 10 days before trial. Where exhibits are voluminous, they should be placed in binders with tabs.

Filings Prior to Trial

Unless otherwise ordered by the Court, each party shall file, 15 days before the date of commencement of trial if such a date has been fixed, or 30 days after the filing of the final pretrial order if no trial date has been fixed:

- i. On the Thursday before trial in jury cases, requests to charge and proposed voir dire questions. Requests to charge should be limited to the elements of the claims, the damages sought, and defenses. General instructions will be prepared by the Court. When feasible, proposed jury charges should also be submitted on a 3.5" diskette in IBM Word Perfect format;
- ii. By claim, a detailed statement regarding damages and other relief sought;
- iii. In non-jury cases, a statement of the elements of each claim or defense involving such party, together with a summary of the facts relied upon to establish each element;
- iv. In all cases, motions addressing any evidentiary or other issues which should be resolved *in limine*; and
- v. In any case where such party believes it would be useful, a pretrial memorandum.